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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Power
Serial No.: 10/672,049
Filed: September 26, 2003
For: Shaping Guide
Atty. Docket No.: 635-001

Art Group: 3643
Examiner: Gellner, Jeffrey L.

Box Fee Amendment
Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Response to Office Action Dated 8/5/04

Dear Sir:

Responsive to the Official Action dated 8/5/04:

The examiner has required restriction between one of two separate inventions.

- I. Claims 1-27, drawn to a tree shaping guide, classified in class 30, subclass 263;
and II. Claims 38-30, drawn to a method of shaping a tree, classified in class 47,
subclass 4.

The examiner has stated that the two inventions are separate if (1) the process for using the product can be practiced with another materially different product; or (2) the product as claimed can be used in a materially different process of using that product. The mere fact that they exist in different classifications does not evidence that the product can be used in a materially different process or that the process can use a materially different product. Indeed, a cursory examination of the product and process claimed in the instant application clearly evidence that the product can only be used in the process of claims 28-30 and that the process of claims 28-30 can only use the product of claims 1-27.

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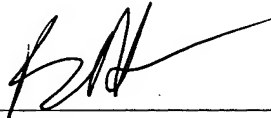
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Therefore, the applicant respectfully requests that the examiner withdraw the instant restriction requirement.

However, in order to fully respond to the outstanding office action, the applicant, herein, elects to proceed with invention I., claims 1-27, drawn to a tree shaping guide, classified in class 30, subclass 263. This election is with traverse. The applicant fees that there are not two separate inventions since the method claimed in claims 28-30 specify the use of a shaped guide for the shaping of a tree. This shaping uses the guide specified in claims 1-27. Further, the applicant withdraws claims 28-30 from current consideration.

Respectfully submitted,

Date: 1/19/05



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage paid, in an envelope addressed to: Box Fee Amendment, Assistant Commission for Patents, PO Box 1450, Alexandria VA 22313-1450

on 1/19/05

By: _____